



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0198]

Revisions to Design of Structures, Components, Equipment, and Systems

Guidance for NRC Staff

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to two sections in Chapter 3, "Design of Structures, Components, Equipment, and Systems," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition." The revisions to these Standard Review Plan (SRP) sections reflect no changes in staff position; rather they clarify the original intent of these SRP sections using plain language throughout in accordance with the NRC's Plain Writing Action Plan. Additionally, these revisions reflect operating experience, lessons learned, and updated guidance since the last revision, and address the applicability of regulatory treatment of non-safety systems where appropriate.

DATES: The effective date of this Standard Review Plan (SRP) update is **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2015-0198** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0198**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Mark Notich, telephone: 301-415-3053; e-mail: Mark.Notich@nrc.gov; or Nishka Devaser, telephone: 301-415-5196; e-mail: Nishka.Devaser@nrc.gov; both are staff members of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

The staff received no comments on the proposed revisions. The staff is issuing the sections in final form for use. There have been no significant changes made to the sections since being issued in proposed form for public comment. An incorrect statement which stated that the SRP provisions only apply to reviews of applications docketed 6 months or more after the date of issuance was removed. Details of specific changes between current SRP sections and the revised sections issued here are included at the end of each of the revised sections themselves, under the “Description of Changes,” subsections.

The Office of New Reactors and the Office of Nuclear Reactor Regulation are revising these sections from their current revisions. Details of specific changes in the proposed revisions are included at the end of each of the proposed sections.

The changes to these SRP sections reflect current NRC staff review methods and practices based on lessons learned from the NRC’s reviews of design certification and combined license applications completed since the last revision of this chapter.

II. Backfitting and Finality Provisions

Issuance of these revised SRP sections does not constitute backfitting as defined in § 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), “Backfitting,” (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC’s position is based upon the following considerations.

1. The SRP positions do not constitute backfitting, inasmuch as the SRP is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.

The SRP provides guidance to the NRC staff on how to review an application for the NRC's regulatory approval in the form of licensing. Changes in internal NRC staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the SRP positions on current licensees and regulatory approvals either now or in the future.

The NRC staff does not intend to impose or apply the positions described in the SRP to existing (already issued) licenses and regulatory approvals. Therefore, the issuance of a final SRP – even if considered guidance that is within the purview of the issue finality provisions in 10 CFR part 52 – need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and issue finality do not – with limited exceptions not applicable here – protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52 – with certain exclusions discussed in the next paragraph– were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

IV. Availability of Documents

The ADAMS accession numbers for the revised sections are available in ADAMS under the following accession numbers:

Document	ADAMS Accession Number
SRP Section 3.2.1, "Seismic Classification," Revision 3	ML16084A812
SRP Section 3.2.2, "System Quality Group Classification," Revision 3	ML16084A884

Dated at Rockville, Maryland, this 11th day of August, 2016.

For the Nuclear Regulatory Commission.

Joseph Colaccino, Chief,
New Reactor Rulemaking and Guidance Branch,
Division of Engineering, Infrastructure, and
Advanced Reactors,
Office of New Reactors.

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